SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT APPEAL NO. 921 OF 2006

BETWEEN
B. Narasimulu & others

.....Appellants

And
District Collector,
Medak at Sangareddy & others

.....Respondents

Counsel for the appellants : Shri N. Subba Reddy Shri P.R.K. Amarendra Kumar

Counsel for respondent Nos. 1 and 2 : Government Pleader for Land Acquisition

Counsel for respondent No.3 : Shri E. Madan Mohan Rao

Counsel for respondent No.5 : Shri V. Srinivas

Dated: 18.09.2006

::JUDGMENT::

Per G.S. SINGHVI, CJ

Feeling dissatisfied with the relief granted to them by the learned Single Judge in Writ Petition No.5921 of 2004, the appellants have preferred this appeal.

The appellants were allotted Ac.5.00 land each in Survey No.335, Zaheerabad village, Medak District by Andhra Pradesh Bhoodan Yagna Board (respondent No.4). After some time, respondent No.4 sent a communication to Mandal Revenue Officer, Zaheerabad for grant of pattas to the appellants under Rule 9 of the Andhra Pradesh Bhoodan and Gramdan Rules, 1965. Vide Memo dated 25.02.1983, the Government of Andhra Pradesh is said to have instructed the Revenue authorities to issue D-Form pattas in favour of the appellants.

In 2002, Andhra Pradesh Industrial Infrastructure Corporation Limited (for short, 'the Corporation') sent a proposal to District Collector, Medak (respondent No.1) for acquisition of Ac.42.07 cents land including the land allotted to the appellants. The purpose of acquisition was expansion of the industrial unit of M/s.Frigerio Conserve Allane Limited (hereinafter described as 'the Company'). On receipt of that proposal, respondent No.1 issued notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act'), which was published in 'Deccan Chronicle' dated 06.04.2003. Simultaneously, Special Deputy Collector (Land Acquisition) (Industries), Hyderabad (respondent No.2) was appointed as Land Acquisition Officer and enquiry under Section 5-A of the Act was dispensed with by invoking the urgency clause contained in Section 17(4).

The appellants challenged the acquisition proceedings by contending that the purpose for which their land is sought to be acquired is not a 'public purpose' and, in any case, the so-called purpose is antithesis of the aims and objectives of Bhoodan Yagna. Another plea taken by the appellants was that acquisition for a private company cannot be made without following the procedure prescribed under Part VII of the Act and there was no justification, legal or otherwise, to invoke the urgency clause which had the effect of depriving them of the right to represent their cause before the competent authority.

In the counter affidavit filed by respondent Nos.1 and 2, the locus standi of the appellants to challenge the acquisition proceedings was questioned on the premise that they are not recorded as owners or possessors of the land in question. It was further averred that the acquisition was made for a public purpose because the Company is engaged in the business of livestock rearing, fish-culturing, agriculture, horticulture etc. connected with agro food processing industry. Still further, it was pleaded that the land was acquired for the Corporation and not for the Company and the urgency clause was invoked because the same was needed for setting up an industrial unit of public importance.

On a consideration of the rival pleadings and hearing the advocates for the parties, the learned Single Judge upheld the notification issued under Section 4 (1), but quashed the remaining proceedings on the ground of non-compliance of the procedure prescribed under Part VII of the Act.

Writ Appeal No.282 of 2006 filed by the Corporation questioning the correctness of the order passed by the learned Single Judge was dismissed by the Division Bench (of which one us i.e., the Chief Justice was a member) vide its judgment dated 28.01.2006 and W.A.SR.No.3174 of 2006 filed by respondent Nos.1 and 2 was dismissed as time barred.

Shri N. Subba Reddy, learned counsel for the appellants argued that the purpose of acquisition is to enable the Company to establish a slaughter house and the same does not constitute 'public purpose' within the meaning of Section 4(1) of the Act. He emphasised that the land was allotted to the appellants for cultivation and that establishment of a slaughter house on the land allotted under Bhoodan Yagna would be a total subversion of the philosophy of Mahatma Gandhi and Vinoba Bhave and, therefore, the notification issued under Section 4(1) of the Act should be quashed.

We have thoughtfully considered the submissions of the learned counsel, but have not felt impressed. Apart from the fact that the writ appeals filed by the Corporation and the State questioning the correctness of the order passed by the learned Single Judge have been dismissed, we are convinced that the stage has not reached for the Court to make final adjudication on the question whether the purpose of acquisition is a public purpose. Enquiry under Section 5-A of the Act is yet to be held. In that enquiry, the appellants will have ample opportunity to raise all legally permissible objections including the one relating to validity of the notification issued under Section 4(1) of the Act. The appellants shall be free to demonstrate that the purpose for which the land is being acquired is not a public purpose. The Land Acquisition Officer may accept their plea and recommend dropping of the proceedings. Even if the report of the Land Acquisition Officer is adverse to the appellants, the competent authority may ultimately decide to abandon the proposal to acquire the land. If the final decision taken by the competent authority is adverse to the appellants, then they shall be entitled to challenge the same by availing appropriate legal remedy. Therefore, we do not find any justification, legal or otherwise, to adjudicate on the legality of the notification issued under Section 4(1) of the Act.

With the above observations, the appeal is dismissed.

Needless to say that the appellants shall be free to raise all legally permissible objections including the one that the purpose for which acquisition is sought to be made does not fall within the ambit of the expression 'public purpose' appearing in Section 4(1) of the Act.

As a sequel to dismissal of the writ appeal, W.A.M.P.No.1946 of 2006 filed by the appellants for interim relief is also dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

18.09.2006

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